

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Könnö et al.  
Title: TRANSFERRING DATA BETWEEN DEVICES  
Appl. No.: 10/594,462  
International Filing Date: 6/29/2004  
371(c) Date: 7/30/07  
Examiner: Quader, Fazlul  
Art Unit: 2164  
Confirmation Number: 1296

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the New **Pre-Appeal Brief Conference Pilot Program**, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal.

**REMARKS**

**Discussion of objections to claim 34:**

The Examiner has objected to claim 34 for reciting an “arrangement. Upon an indication of allowability of the pending claims, Applicant will appropriately amend claim 34 to replace the word “arrangement” with “apparatus.”

**Discussion of claim rejections under 35 U.S.C. § 103(a):**

Claims 1-3, 5-20, 22, 24-32, 34-41 and 43-58 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Publication No. 2002/0064149 to Elliott *et al.* (hereinafter “Elliott”) in view of U.S. Patent Publication No. 2004/0088348 to Yeager *et al.* (hereinafter “Yeager”) and further in view of U.S. Patent Publication No. 2004/0111575 to Arimilli *et al.* (hereinafter “Arimilli”). Applicant respectfully disagrees with the Examiner’s position and, therefore, traverses these rejections for at least the following reasons.

In rejecting claim 1, the Examiner has relied upon Elliott, paragraphs [0457] and [1702], and Yeager, paragraph [0460], to argue that these references describe “an indication of capacity and/or format of a message which is to be used by the receiving user equipment to send the received modified clone data file to another device,” as recited in pending claim 1. See Office Action, dated September 16, 2009, page 4, lines 9-14. Applicant respectfully disagrees.

As described in the originally-filed specification at, for example, page 4, lines 6-10; page 5, lines 29-31; page 6, lines 10-14; page 9, lines 19-29; and page 10, lines 22-32, a user equipment may support sending of further messages to other devices using a multimedia message service (MMS) which is limited to certain file sizes or formats. Accordingly, even if a sending device modifies and sends a data file to a receiving user equipment based on a method of transfer and/or the capabilities of the receiving user equipment to decode and display a data file, the data file may be in a format or file size that is not suitable for incorporation into future messages to be sent by the receiving user equipment to other devices. Therefore, the above-noted feature of pending claim 1, as supported by the above-noted sections of the specification, recites “an indication of capacity and/or format of a message which is to be used by the receiving user equipment to send the received modified clone data file to another device.” As such, it is ensured that the data is modified into a suitable format/size from the outset such that it can be readily forwarded by the receiving user equipment to another device without further modification to the data file in the receiving user equipment. This may be done, for example, even if the sending user equipment can utilize alternative formats and the receiving user equipment can utilize other formats. Therefore, embodiments of the present invention allow a particular selection of format or file size to be

made based on a future format or file size that will be utilized by the receiving user equipment.

There are no teachings or suggestions in paragraphs [0457] and [1702] of Elliott, or in paragraph [0460] of Yeager, related to the above-noted feature of pending claim 1. In particular, paragraph [0457] of Elliott describes “message switching.” According to Elliott, with message switching, no physical path is established in advance between the sender and receiver. Instead, whenever the sender has a block of data to be sent, the data is stored at the first switching office and re-transmitted to the next switching point after error inspection. Paragraph [0457] of Elliott further describes that message switching places no limit on block size, thus requiring that switching stations must have discs to buffer long blocks of data. As to paragraph [1702] of Elliott, this section of Elliott’s disclosure describes that sub-classing and inheritance make it possible to extend and modify objects through deriving new kinds of objects from the standard classes available in the system. Thus new capabilities may be created without having to start from scratch. However, there are no teachings or suggestions in paragraphs [0457] and [1702] of Elliott to teach or even suggest “an indication of capacity and/or format of a message which is to be used by the receiving user equipment to send the received modified clone data file to another device,” which is recited in pending claim 1.

Regarding paragraph [0460] of Yeager, this paragraph discloses various data transfer methods that may be implemented by pipes to provide a different quality of service. According to Yeager, transfer methods include synchronous request-response, streaming, bulk transfer, and secure. However, Yeager fails to teach or suggest “an indication of capacity and/or format of a message which is to be used by the receiving user equipment to send the received modified clone data file to another device,” which is recited in pending claim 1.

Further, Arimilli fails to cure the above-noted deficiencies of Elliott and/or Yeager. Thus, since the cited references, either alone or in combination, fail to teach or suggest at least the above-noted features of the claim 1, the Office Action fails to establish a *prima facie* case of obviousness. Accordingly claim 1 is patentable.

In addition, as noted in Applicant’s response to the March 5, 2009, Office Action, Elliot, Yeager and/or Arimilli also fail to teach or suggest additional features of the pending

claims. In particular, Elliott fails to teach or suggest assessing and modifying data based on information relating to a transfer method and/or receiving user equipment, which are recited in pending claim 1. Further, Yeager fails to teach or suggest at least the features of pending claim 1 that relates to assessing a data file and modifying a clone data file based on information relating to the transfer method to be used. Rather, Yeager discloses that the data should be transferred in accordance with a certain transfer method based on the desired quality of service. There is no teaching or suggestion in Yeager, in the cited portion or elsewhere, to modify the data according to the specific data transfer method which is selected. In addition, Arimilli fails to cure the above-noted deficiencies of Elliott and/or Yeager.

Accordingly, claim 1 is patentable for these additional reasons.

Claims 22, 32, 34, 39 and 59 recite features that are similar to the ones discussed above in connection with claim 1. Accordingly, claims 22, 32, 34, 39 and 59 are patentable for similar reasons as claim 1.

As to claims 2-3, 5-20, 23-31, 35-38, 40-41 and 43-58, these claims each depend, either directly or indirectly, from one of allowable claims 1, 22, 34 or 39, and are, therefore, patentable for at least that reason, as well as for additional patentable features when these claims are considered as a whole.

**Conclusion:**

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,

Date January 19, 2010

By /G. Peter Albert, Jr./

FOLEY & LARDNER LLP  
Customer Number: 30542  
Telephone: (858) 847-6735  
Facsimile: (858) 792-6773

G. Peter Albert Jr.  
Attorney for Applicant  
Registration No. 37,268

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

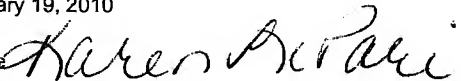
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On January 19, 2010

Signature



Typed or printed name: Karen LePari

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6/29/2004

First Named Inventor

Mika Könnö

Art Unit

2164

Examiner

Quader, Fazlul

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/G. Peter Albert, Jr./

Signature

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

G. Peter Albert Jr.

Typed or Printed Name

☒ attorney or agent of record.

Registration number 37,268

(858) 847-6735

Telephone Number

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

January 19, 2010

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.



\*Total of 1 forms are submitted.

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